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Simon A. J. Holdsworth

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Steven M. Greenberg
CHRISTOPHER & WEISBERG, P.A.
Suite 2040
200 East Las Olas Boulevard
Fort Lauderdale, FL 33301

EXAMINER

AVELLINO, JOSEPH E

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Technology Center 2100

**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application Number: 10/016,935
Filing Date: December 14, 2001
Appellant(s): HOLDSWORTH, SIMON A. J.

Scott D. Paul
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed August 11, 2006 appealing from the Office action mailed December 14, 2005.

(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The statement of the status of claims contained in the brief is correct.

(4) Status of Amendments After Final

No amendment after final has been filed.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is deficient. 37 CFR 41.37(c)(1)(v) requires the summary of claimed subject matter to include: (1) a concise explanation of the subject matter defined in each of the independent claims involved in the appeal, referring to the specification by page and line number, and to the drawing, if any, by reference characters and (2) for each independent claim involved in the appeal and for each dependent claim argued separately, every means plus function and step plus function as permitted by 35 U.S.C. 112, sixth paragraph, must be identified and the structure, material, or acts described in the specification as corresponding to each claimed function must be set forth with reference to the specification by page and line number, and to the drawing, if any, by reference characters. The brief is deficient because independent claims 1, 11, and 14 are means-plus-function claims, however the summary given in section V does not identify a structure, material, or act described in the specification corresponding to each claimed function, merely gives a brief overview and points to specific points in the disclosure, and does not refer to the drawings by reference characters.

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

6,633,630	Owens et al.	10-2003
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6,073,165	Narasimhan et al.	6-2000
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US Publication no. 2001/0027479 (Delaney et al), published October, 2001

US Publication no. 2001/0143951 (Kahn et al.); published October, 2002

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

1. Claims **1-4, 10-14 and 16** are rejected under 35 U.S.C. 103(a) as being unpatentable over Owens et al. (**US 6,633,630 B1**), hereinafter 'Owens' in view of Narasimham et al. (**US 6,073,165**) hereinafter 'Narasimhan'.

Regarding claims **1, 14 and 16**,

Owens taught a system for providing a publish/subscribe service for publisher and application programs, comprising:

means for receiving published messages from one or more publisher application programs (**abstract, figs. 1-3, column 7 lines 4-11, column 7 lines 11-24 and 55-62; and column 8 lines 29-31**);

means for forwarding received messages to connected message brokering systems **(column 7 lines 24-29 and column 8 lines 32-42);**

means for selecting a message filtering policy which is appropriate for the communication characteristic (i.e. if the incoming message is an email, then convert the email to a fax, and send it to the CompuServe mailbox; receive a fax/voice communication, transmit a notification to the other mailbox; "the options available to a sender depend on the *communication mode and services offered by the provider*") **(fig. 3, column 8 lines 34-36, fig. 5, 6 and 8; and column 10 lines 5-8, 24-56); and**

means for controlling the forwarding of messages via the inter-broker communication link using the selected message filtering policy **(column 10 line 57 to column 11 line 21).**

Owens did not expressively teach details regarding selecting a message filtering policy based on a communication characteristic of a link between brokering systems. IN analogous art (i.e. message communication in computer networks), Narasimhan discloses another message brokering system which discloses selecting a policy, based on the communication characteristic of the network (i.e. if server A is down, then go down the list of user defined available servers until an appropriate server is found which can route the message to the user) (col. 4, lines 30-63; col. 5, lines 25-30; col. 7, lines 1-15). It would have been obvious to one of ordinary skill in the art to combine the teaching of Owens with Narasimhan in order to incorporate a backup service to the system of Owens, thereby providing redundancy by using alternate source servers (i.e.

the Premiere service of Owens), mirrored databases, and alternate destination servers (i.e. the CompuServe service of Owens) as supported by Narasimhan (col. 6, line 65 to col. 7, line 14). This would provide an ability for the users of the system of Owens to receive their messages via their respective systems even though the CompuServe server is down or a message is unreachable via the particular network or link, thereby ensuring that a message gets routed appropriately to the user.

Regarding claim 2, Owens taught a system wherein the communication characteristic used to select a message filtering policy is a communication protocol provided by the communication link (**column 8, lines 39-42**). Although Owens is not expressly evaluating the link characteristics it is clear that the system is performing a conversion depending on selected options and based on the expected communication medium. Owens also taught the use of different inbound and outbound communication types (inherently using different protocols) (**figs. 2-3 and 6-15**). Narasimhan taught the provision of transmission services configurable to use either SMTP or POP (**column 3 lines 10-20**).

Regarding claim 3, Narasimhan taught a system wherein establishing an inter-broker communication link includes: defining the communication characteristic for the link (**column 3 lines 15-20**). It is well known in the art that mail client configuration, such as those described by Narasimhan, include definitions of the communication link such as IP address or server name and authentication information.

Owens taught comparing the communication characteristic with a list of administrator-defined associations between communication characteristics and message filtering policies, to select a message filtering policy for the communication link; and storing an identification of the selected message filtering policy in association with the communication link (**column 8 lines 39-42**). In Owens disclosures the association of the policies or options is (inherently) stored first as defined by the receiver, and applied to messages depending on the communication medium.

Regarding claim 4, Narasimhan taught a system wherein the communication characteristic used to select a message filtering policy includes a dynamic communication characteristic (**column 7 lines 13-15**).

2. Regarding claim 10,

Owens taught a system wherein the selection of a message filtering policy is specific to a selected message topic or topic group (**figs. 8 and 16; and column 11 lines 62-67**). Note it is well known in the art that the words in the subject of an email message represent the main topic of the message.

Regarding claim 11, Owens further taught at least a first and a second message broker (**figs. 1, 14 and 16 and column 7 lines 24-31**), connected via one or more inter-broker communication links (**fig. 1 [18], and column 7 lines 55-62**) and configured to

Art Unit: 2143

provide a publish/subscribe service for publisher and subscriber application programs (fig. 1 [20] and [24]).

Regarding claims **12 and 13**, Owens taught a system wherein said means for selecting a message filtering policy is adapted to select one of a plurality of different policies in response to characteristics of received message further defining such characteristic as a topic identifier within a received message ("subject keyword") (fig. 8 column 11 lines 63-67).

3. Claims **5-6** are rejected under 35 U.S.C. 103(a) as being unpatentable over Owens et al. (US 6,633,630 B1), hereinafter 'Owens' in view of Narasimham et al. (US 6,073,165) hereinafter 'Narasimhan', further in view of Hurst et al. (US 6,131,123) hereinafter 'Hurst' and further in view of Khan et al. (US 2002/0143951 A1).

The combination of Owens and Narasimhan taught the invention substantially as claimed. However the combination of Owens and Narasimhan did not expressively taught that the communication characteristic used to select a message filtering policy includes a measure of subscription activity; and that the communication characteristic used to select a message filtering policy includes a measure of redundant message transmissions.

Art Unit: 2143

Regarding claim 5, Khan taught a system wherein the communication characteristic used to select a message forwarding policy includes a measure of subscription activity [0033].

Regarding claim 6, Hurst taught a system wherein the communication characteristic used to select a message forwarding policy includes a measure of redundant message transmissions (**abstract, column 4 lines 5-12, column 5 lines 57-63, column 7 lines 7-14, column 7 lines 24-26, column 7 lines 35-47 and column 8 lines 54-65**).

It would have been obvious to one of ordinary skill in the art at the time of the invention was made to further modify the methods/systems of Owens combined with Narasimhan, with the teachings of Khan and Hurst. Owens motivated the exploration of the art of selecting filtering policies (column 8 lines 29-31). Hurst motivated the exploration of the art of selectively forwarding messages to recipients (column 2 lines 54-57 and column 4 lines 5-12). Hurst motivated the exploration of the art of multicasting and unicasting in column 1 lines 19-46. Khan motivated the exploration of the art of multicasting and unicasting in paragraphs 0002, 0003, 0005 and 0007. This modification would have improved Hurst disclosure with the teachings of Khan providing a system that sends or forwards a multicast or a unicast message, using a forward agent. See Khan [0012]. The combination of Owens with Narasimhan would have been improved with the teachings of Khan and Hurst to enable the provision of messages distribution considering active subscriptions (see Khan [0033]) and avoiding

Art Unit: 2143

forwarding redundant messages to the receiving hosts (see Hurst **column 4 lines 5-12**).

4. Claims **7** are rejected under 35 U.S.C. 103(a) as being unpatentable over Owens et al. (**US 6,633,630 B1**), hereinafter 'Owens' in view of Narasimham et al. (**US 6,073,165**) hereinafter 'Narasimhan', further in view of Delaney et al. (**US 2001/0027479 A1**).

Regarding claim **7**, the combination of Owens and Narasimhan taught the invention substantially as claimed. However the combination of Owens and Narasimhan did not expressly taught means for controlling includes means for implementing a broadcast messaging policy and means for implementing a proxy-subscription-based message filtering policy, a respective one of said means for implementing being activated in response to said selection of a message filtering policy.

Delaney taught a system wherein a preferred implementation in which broadcast and multicast (a variation of broadcast to subscribed or selected receivers) is used, more preferably, the decision to select multicast or broadcast is made according configuration set by the network administrator **[0047]**.

It would have been obvious to one of ordinary skills in the art at the time the invention was made to further modify the combination of Owens and Narasimhan with the teachings of Delaney. Delaney motivated the exploration of the art of message

transmission **[0002]**. The invention taught by the combination Owens and Narasimhan would have been improved with the teachings of Delaney by providing a systems that selectively determines whether broadcast or selectively send a message to neighboring brokers or final recipients.

5. Claims **8-9** are rejected under 35 U.S.C. 103(a) as being unpatentable over Owens et al. (**US 6,633,630 B1**), hereinafter 'Owens' in view of Narasimhan et al. (**US 6,073,165**) hereinafter 'Narasimhan', further in view of Delaney et al. (**US 2001/0027479 A1**) and further in view of Khan et al. (**US 2002/0143951 A1**) hereinafter 'Khan'.

The combination of Owens, Narasimhan and Delaney taught the invention substantially as claimed, however this combination did not expressively teach a system wherein said means for implementing a proxy-subscription-based messaging policy comprises: means for receiving subscription information for connected message brokering systems and for storing said subscription information for comparison with received published messages; means for forwarding to connected message brokering systems subscription information for subscriber application programs connected the message brokering system and wherein the broadcast messaging policy is implemented for links which provide a non-transactional messaging protocol and the proxy-subscription-based message filtering policy is implemented for links which provide transactional messaging protocol.

Regarding claim 8, Khan taught means for receiving subscription information for connected brokering systems and storing such information for comparison with published messages **[0029, 0030, 0031]** (“...the source server on receipt of the “unicast join” message...”). Khan further taught forwarding subscription information to a connected message brokering system **[0030]** (“... the source server forward the client’s “unicast join” message to the designated agent...”).

Regarding claim 9, Khan taught the use of IP addresses known to support transmission confirmation for assuring transmission completeness or delivery assurance required in some application **[0027]**.

Delaney taught selectively selecting either IP multicast or broadcast according to the configuration set by the network administrator **[0047]**.

Owens taught inter-broker exchange of billing information **(fig. 3)**.

It would have been obvious to one of ordinary skill in the art at the time of the invention was made to further modify the methods/systems of Owens combined with Narasimhan and Delaney, with the teachings of Khan. Owens motivated the exploration of the art of selecting filtering policies (column 8 lines 29-31). Khan motivated the exploration of the art of inter-server communication (“...by the source server to a multicast enabled server computer...”) **[0025]**. The combined method/system of Owens, Narasimhan

and Delaney would have been improved with the teachings of Khan to enable the receiving, storing and forwarding of subscription information in an inter-server communication environment (see Khan [0029-0033]) and selectively utilizing delivery assurance capabilities typically found in TCP/IP communication protocol (see Khan [0024]) such as CRC, further implementing such functionality distinctively for broadcasting or multicasting messages according to predetermined configuration (see Delaney [0027]) in links where delivery assurance is important, for example for properly billing a client (see Owens **fig. 3**).

(10) Response to Argument

Appellant's arguments (i.e. Brief, Section VII, pages 4-9) have been fully considered but are not persuasive.

In the Brief, Appellant argues, in substance, that (A.1) Owens does not teach the claimed means for selecting a message filtering policy which is appropriate for a communication characteristic (Brief, page 5), (A.2) Narasimhan's rerouting based upon a communication characteristic is not comparable to the claimed selecting a message filtering policy appropriate for a communication characteristic (Brief, page 5), (A.3) Owens does not teach automatically selecting filtering policies (Brief, page 6), (A.4) The proposed combination would not result in the claimed invention (Brief, page 7).

As to point (A.1) Appellant has not clearly defined what is meant by a "communication characteristic", and as such intends broad interpretation of this limitation. Appellant should be aware that although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993). Owens teaches selecting a message filtering policy (i.e. how to deal with the message) based on the type of message the incoming message is (i.e. voice mail, email, fax, etc.) and who the message is being sent to (i.e. the destination, or recipient). Appellant is advised to review the rejections above for where these features can be found in Owens. It is the combination of Owens in view of Narasimhan which disclose selecting a message filtering policy which deals with the communication characteristic of a communication link. Furthermore Appellant should be aware that one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986). The rejection is based on Owens *in view of* Narasimhan, not merely on Owens. By this rationale, the rejection should be maintained.

As to point (A.2) the system of Narasimhan does not intrinsically know the specific details of what to do when a server fails (i.e. the communication characteristic). It must consult the profile of the recipient to determine what other server can be utilized as the destination server 125. Narasimhan discloses that the account information

identifies one or more destination servers by their addresses (col. 4, lines 40-45). Appellant has not clearly defined what is meant by a "message filtering policy" and therefore this selection of an alternate destination server and determination of the computer network routing information required for sending the filtered message to the alternate destination server can be construed as the claimed "selecting a message filtering policy based on a communication characteristic of a...link". By this rationale, the rejection should be maintained.

As to point (A.3) Appellant has pointed out that this limitation is not claimed, and that Appellant was refuting the rationale for the combination of the references. As such, the Examiner has provided a new rationale for the combination of the references which clearly demonstrates that it would have been obvious to combine the two references. Therefore this argument has become moot.

As to point (A.4), the Examiner, through the grounds of rejection above and the refutation of arguments A.1-A.3 above, has clearly shown that each and every limitation of the independent claims has been met by the combination of Owens in view of Narasimhan. By this rationale, the rejection should be maintained.

(11) Related Proceeding(s) Appendix

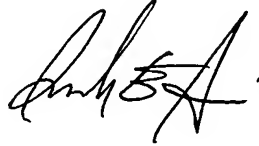
No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

Art Unit: 2143

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

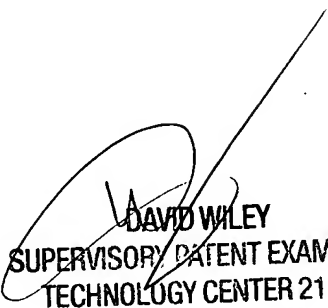
Joseph E. Avellino, Examiner



Conferees:



JOHN J. COLLANSBEE
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2100



DAVID WILEY
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2100